IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7380 OF 2005

IN

APPEAL NO.1042 OF 2005

Amarsingh Kalusingh Vishwakarma .. Applicant

Versus

The State of Maharashtra .. Respondents

Mr.Nitin Sejpal and Ms.Pooja Bhojne for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 11th November 2005.

(Vacation Judge)

P.C.

. The appeal is yet to be admitted but the application is moved for urgent orders by the appellant.

2. Learned Advocate appearing for applicant in support of this application contends that on 6th November 2005, father of the applicant expired at his residence in Mumbai. Death certificate is annexed to the criminal application. Applicant who is lodged in Kolhapur Central Prison desires to remain present for 10th and 13th day rites which are to be held on 15th November 2005. Learned Counsel for applicant states that the writ to reach appropriate authorities and the applicant to be released thereafter on parole would take some time and, therefore, it is necessary that appropriate orders and directions be passed on the application to enable the applicant to perform the last rites.

3. The applicant is sentenced to suffer R.I. for life and it is not disputed by learned A.P.P. that he is lodged in Kolhapur central prison. Learned A.P.P. however, states that the respondent has no objection for the applicant being permitted to attend last rites consequent upon the death of his father but the expenses for police escort should be born by the applicant.

4. Learned Counsel appearing for applicant points out that the applicant is the only major son whereas the younger brother is juvenile. Applicant has been lodged in prison since 2002 and the only earning member was the deceased father. Therefore, the applicant is not in a financial position to arrange for funds. Learned Counsel for applicant further submits that the presence of applicant is required only for one day i.e. 15th November 2005 between 10 a.m. to 3 p.m. and the applicant does not desire to stay after 15th November 2005.

5. In the aforesaid circumstances, Superintendent, Kolhapur Central Prison is directed to escort the applicant soas to enable him to attend the last rites to be performed on 15th November 2005 of his deceased father. The applicant shall surrender himself on 16th November 2005 to the escort team who will be accompanying him from Kolhapur Central Prison. It is only on this condition the applicant is allowed to attend the last rites. Application is disposed of accordingly.

(S.C.DHARMADHIKARI, J)